

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7790

Petition Central Vermont Public Service Corporation)
("CVPS"), for a certificate of public good pursuant to)
30 V.S.A. § 248(j) authorizing the reconductoring of)
approximately 9 miles of 46 kV transmission line in)
Mount Holly and Ludlow, Vermont)

Order entered: 12/2/2011

I. INTRODUCTION

This docket involves a petition filed by Central Vermont Public Service Corporation ("CVPS"), requesting a certificate of public good ("CPG") under 30 V.S.A. § 248(j) for the reconductoring and refurbishment of 9 miles of CVPS's existing 46 kV transmission line in Mount Holly and Ludlow, Vermont (the "Project"). In today's Order, we conclude that the Project will be of limited size and scope, the petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j), and the Project will promote the general good of the state.

II. PROCEDURAL HISTORY

On August 8, 2011, CVPS filed a petition, including prefiled testimony and proposed findings, with the Public Service Board ("Board") pursuant to 30 V.S.A. § 248(j) for a CPG authorizing the Project.

On August 22, 2011, pursuant to a request by the Clerk of the Board, CVPS filed a proposed order.

On September 26 2011, the Board requested additional information concerning the petition. On October 3, 2011, CVPS filed responses to the request for information ("Information Responses") and supplemental exhibits.

On October 11, 2011, notice of the filing in this Docket was posted on the Board's website and sent to all parties specified in 30 V.S.A. § 248(a)(4)(C) and all other interested persons. The notice stated that any party wishing to submit comments as to whether the petition raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248 must file its comments with the Board on or before November 8, 2011.

On October 28, 2011, the Department filed a determination that the proposed project is consistent with the *Vermont Electric Plan*, in accordance with 30 V.S.A. § 202(f).

On November 2, 2011, the Vermont Department of Public Service ("Department") filed a letter stating that the petition does not raise any significant issues with respect to the substantive criteria of 30 V.S.A. § 248.

On November 7, 2011, the Vermont Agency of Natural Resources ("ANR") filed, via e-mail, a request for a one-week extension to the deadline for filing comments on the petition in this proceeding. ANR represented that CVPS and the Department consented to the requested extension.

On November 8, 2011, the Clerk of the Board issued a memorandum granting the request to extend the comment deadline to November 15, 2011.

On November 14, 2011, CVPS filed a revised proposed order and CPG that incorporated specific conditions proposed in the prefiled testimony of Mr. Timothy O. Upton.

On November 16, 2011, CVPS filed a letter that it received from the Vermont Division for Historic Preservation ("DHP") and a copy of the Archaeological Phase II Testing End of Field Letter.

No other comments were received.

III. FINDINGS

1. CVPS is a duly organized corporation with a principal place of business at 77 Grove Street, Rutland, Vermont. Petition at 1.

2. The proposed project will involve reconductoring of an approximately 9-mile section of the existing 46 kV transmission line, installed in 1926, between the the Mount Holly Substation in Mount Holly and the Smithville Substation in Ludlow, Vermont. Jones pf. at 3.

3. The proposed project will replace approximately eight miles of #1 stranded copper conductor, which has a diameter of 0.328 inches, with 477 Aluminum Conductor Steel Reinforced conductor ("ACSR"), which has a diameter of 0.814 inches. The proposed project will also replace approximately 0.9 miles of 4/0 ACSR and 336 ACSR with 477 ACSR. The new conductor will match the conductor placed on the adjacent Wallingford to Mount Holly line in 2007. The reconductoring will be undertaken to reduce line losses on the CVPS system and allow for higher thermal capability during system contingencies. Information Response at A1 (Jones); Jones pf. at 3; Johnson pf. at 2.

4. The proposed project will also include the replacement of thirty-seven pole structures with pole structures of generally the same configuration. A few of the pole structure replacements will change existing single-crossarm structures to a double-crossarm structure and one will increase the above-ground height of the structure by approximately five feet. The proposed project will also involve reinforcing twenty-five existing single-crossarm pole structures with a second crossarm. The pole structure replacements and reinforcements will be undertaken due to lack of capacity, lack of height, age, and deterioration. Information Responses at A2 and A3 (Johnson); exh. RCJ-1.

5. The proposed project will occur entirely within the existing transmission right-of-way ("ROW"). The line segment's regularly scheduled maintenance cycle will occur in early 2012, and the ROW clearing will not be expanded as a result of the proposed project. In addition, trimming and removal of vegetation along the existing access routes will be completed as necessary. Information Responses at A13 (Upton); Upton pf. at 2 and 11.

6. The proposed project will not require new road construction. Upton pf. at 6.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

7. The proposed project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of municipal legislative bodies, and the

land conservation measures contained in the plan of any affected municipality. This finding is supported by findings 8 through 10, below.

8. CVPS provided plans for the proposed project to the Mount Holly and Ludlow Planning Commissions, the Rutland Regional Planning Commission, and the Southern Windsor County Regional Planning Commission. None of the planning commissions filed comments or recommended changes. Upton pf. at 5.

9. Consistent with requisite town and regional plans, the proposed project will ensure a safe, efficient, reliable, and cost-efficient energy supply by reducing line losses, improving efficiency, and maintaining electric reliability by replacing existing transmission conductors and transmission structures within an existing, cleared ROW. Upton pf. at 4-5; Jones pf. at 4-5.

10. The proposed project will not conflict with the land conservation measures contained in the plan of any affected municipality because the project will occur entirely within the existing, cleared transmission ROW. Upton pf. at 2.

Need for Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

11. The proposed project is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy-efficiency and load management measures. This finding is supported by findings 12 through 14, below.

12. Although the proposed project will increase the capacity of the line, the need for the proposed project is not driven by new electrical demand or the tensile capacity of the existing conductor. The proposed project is driven by efficiency-loss opportunities and reliability. Jones pf. at 4.

13. The replacement of the existing conductor with a larger conductor will eliminate the existing exposure to thermal overload when the Ascutney to Coolidge 115 kV line is lost, a problem which was identified in VELCO's 2009 Vermont Long-Range Transmission Plan. Information Responses at A1 (Jones); Jones pf at 4.

14. The proposed project will save approximately 796,900 kWh annually and approximately \$500,000 in losses over twenty years without assuming any load growth. Jones pf. at 3.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

15. The proposed project will improve system reliability and maintain system stability by eliminating a thermal overloading problem and increasing the breaking strength of the conductor by 210%, which will improve the line's ability to handle contingencies such as ice storms and tree contact. Johnson pf. at 3-4; *see also* finding 13, above.

Economic Benefit to the State

[30 V.S.A. § 248(b)(4)]

16. The proposed project will result in an economic benefit to the state and its residents. Jones pf. at 5. This finding is also supported by finding 14, above, and finding 17, below.

17. The proposed project is estimated to cost \$1.496 million. Johnson pf. at 3.

Discussion

Pursuant to 30 V.S.A. § 248(b)(4), the Board must find that the proposed Project "will result in an economic benefit to the state and its residents" before issuing a certificate of public good. As determined in previous Orders approving transmission line upgrades, the Project will increase reliability and, thus, reduce the potential economic costs associated with power losses for residential, commercial, and industrial customers.¹ The increased reliability will also help the state maintain economic activity and allow future commercial and industrial expansions. For these reasons, we conclude that the Project will result in an economic benefit to the state and its residents.

1. Middlebury Reliability Project, Dockets 7596 and 7597, Order of 8/20/10 at 27.

**Aesthetics, Historic Sites, Air and Water Purity,
the Natural Environment and Public Health and Safety**

[30 V.S.A. § 248(b)(5)]

18. The proposed project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and public health and safety. This finding is supported by findings 19 through 62, below, which are the criteria specified in 10 V.S.A. §§ 1424(a)(d) and 6086(a)(1)-(8)(A) and (9)(K).

Outstanding Resource Waters

[10 V.S.A. § 1424(a)(d)]

19. The Project is not located on or near any outstanding resource waters. Upton pf. at 13.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

20. The proposed project will not result in undue water or air pollution. Upton pf. at 5. This finding is also supported by findings 21 through 39, below.

21. The proposed project will not result in undue air pollution. Construction will not involve excessive dust or necessitate clearing or burning. Upton pf. at 2 and 5.

Discussion

CVPS states that construction "will take place between the hours of 6:30 A.M. and 6:00 P.M., which will minimize the effects of noise at neighboring properties."² However, CVPS did not provide the location of the nearest residences or describe the quality or duration of the noise that will be generated during construction. Therefore, given the lack of evidence regarding noise and in accordance with conditions that the Board has included in approvals for similar projects, we will require that, other than the commissioning and terminating of the transmission line conductors, CVPS shall restrict construction activities to the hours between

2. Upton pf. at 5-6.

7:00 A.M. and 5:00 P.M., Monday through Saturday, and shall cease construction activities on Sundays and State and Federal Holidays.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

22. The proposed project will not have an undue adverse impact on any headwaters. This finding is supported by findings 23, 24, and 28 through 31, below.

23. The proposed project is located partially within a headwaters area. However, the work within the headwaters area will occur entirely within an existing ROW and will consist of replacing existing conductor and pole structures in their existing locations. Upton pf. at 6; exh. CVPS-TOU-3.

24. CVPS will employ best management practices ("BMPs"), including the utilization of erosion and sediment controls and site restoration and revegetation of disturbed areas, to avoid construction-related stormwater runoff to headwaters. Upton pf. at 6.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

25. The Project will meet applicable Department of Health and Department of Environmental Conservation ("DEC") regulations for the disposal of wastes, and will not involve the injection of waste materials or any harmful or toxic substances into ground water or wells. Retired materials will be salvaged or disposed of in accordance with the Vermont Solid Waste Management Rules. Upton pf. at 6.

Water Conservation, Sufficiency of Water, and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(1)(C),(a)(2) and (3)]

26. The proposed project will not require the use of water. Upton pf. at 6 and 9.

Floodways

[10 V.S.A. §§ 6086(a)(1)(D)]

27. The proposed project is not located in a floodway. Upton pf. at 5.

Streams

[10 V.S.A. §§ 6086(a)(1)(E)]

28. The proposed project will result in no undue or adverse impacts on streams. This finding is supported by findings 29 through 31, below.

29. Nine mapped perennial streams, approximately twenty intermittent streams, and the Black River traverse the Project's ROW. Information Responses at A7 (Upton); exhs. CVPS-TOU-3 and RCJ-1.

30. CVPS will avoid crossing streams to the greatest extent possible through careful management of access points. Information Responses at A7 (Upton); Upton pf. at 7.

31. CVPS will employ site- and weather-specific BMPs to protect streambank integrity, such as temporary bridges, erosion and sediment control devices (e.g., silt fencing upgradient of stream crossings), and post-construction stabilization and revegetation of disturbed soils near streams. Information Responses at A7 (Upton); Upton pf. at 7.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

32. The proposed project will, insofar as possible, retain all shorelines and waters in their natural condition, allow continued access to the waters and the recreational opportunities provided by the waters, retain or provide vegetation which will screen the proposed project from the waters, and stabilize the bank from erosion, as necessary, with vegetation cover. This finding is supported by findings 33, 34, and 40-44, below.

33. The proposed project involves a crossing of, and two pole structure replacements on, the shoreline of the Black River. Upton pf. at 7; exhs. CVPS-TOU-3 and RCJ-1.

34. The project will occur within a cleared ROW. No project-related construction will occur between the mean high- and low-water marks, and the shoreline will be maintained in its

current state. Public access will not be impacted and existing screening will be maintained along the banks. Upton pf. at 2 and 8.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

35. The proposed project will have no undue adverse impacts to identified wetlands. This finding is supported by findings 36 through 39, below.

36. Twenty-four Class II wetlands and twenty-four Class III wetlands are located within or partially within the proposed project's ROW. Information Responses at A8 (Upton); exh. CVPS-TOU-3 and RCJ-1.

37. The proposed project qualifies as maintenance activities within the meaning of the Vermont Wetland Rules ("Rules"). CVPS will minimize adverse impacts to wetlands areas and will conduct construction activities in accordance with the wetlands-related BMPs developed by the Agency of Natural Resources ("ANR") Information Responses at A9 (Upton); Upton pf. at 8.

38. CVPS will also follow its own internal BMPs for wetlands protection and will minimize wetlands impacts through the careful management of access points. Construction will take place during dry or frozen conditions where feasible, and CVPS will use temporary matting as necessary to protect wetland soils and vegetation. ANR-approved native-wetland seed mixes will be used for post-construction seeding. Information Responses at A8 (Upton); Upton pf at 8-9.

39. ANR and the United States Army Corps of Engineers ("ACOE") were provided with a project description, project map, and details regarding CVPS's proposed compliance with State and Federal regulations. Both ANR and ACOE confirmed that they had no concerns related to the proposed project. Information Responses at A10 (Upton).

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

40. The proposed project will not result in unreasonable soil erosion or a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. This finding is supported by findings 41 through 44, below.

41. CVPS estimates that the area of soil disturbance required for the proposed project is 525 square feet. Given the limited amount of anticipated soil disturbance, the proposed project does not require a Stormwater Construction Permit from DEC. Information Responses at A11 (Upton); Upton pf. at 10.

42. All project-related work will take place within the existing cleared transmission ROW and will not require the construction of new roads. Upton pf. at 10.

43. CVPS will implement soil-erosion control measures which may include: silt fencing; water bars; stone check dams; temporary bridges; construction matting; dewatering basin repair; grading and stabilization of ruts; and temporary stabilized construction entrances. CVPS will employ appropriate soil-erosion control measures based on the site conditions at the time of construction or access and will avoid areas prone to erosion where possible. Accessing some areas during dry or frozen conditions will avoid erosion and obviate the need for control measures. Information Responses at A11 (Upton); Upton pf. at 10.

44. Following construction, CVPS will smooth equipment set-up areas and seed and mulch as needed in accordance with BMPs for erosion control. For reseeded, CVPS will use a standard conservation or ROW mix in upland areas, and an ANR-approved native wetland mix in wetland areas. Information Responses at A6 (Johnson); Johnson pf. at 3; Upton pf. at 10.

Transportation Systems

[10 V.S.A. § 6086(a)(5)]

45. The proposed project will not cause unreasonable congestion or unsafe conditions with respect to use of highways, waterways, railways, airports and airways, and other means of transportation existing or proposed. Upton pf. at 10. This finding is supported by findings 46 through 48, below.

46. The proposed project will not change any existing road crossings. Upton pf. at 10.

47. The proposed project will involve work on Vermont Routes 100 and 103, including the installation of conductor over Route 103 and other public roads. Upton pf. at 10; exh. TOU-1-3.

48. CVPS will only undertake road crossings with specific approval from the Vermont Agency of Transportation ("VTrans"). VTrans will prescribe the traffic controls for the proposed project and generally requires adherence to the Manual on Uniform Traffic Control Devices. Information Responses at A12 (Upton).

Educational and Municipal Services

[10 V.S.A. § 6086(a)(6) & (a)(7)]

49. The proposed project will not cause any unreasonable burden on the ability of any municipality to provide educational, municipal, or governmental services. Upton pf. at 10.

Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

50. The proposed project will not have an undue adverse effect on the scenic or natural beauty, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 51 through 60, below.

51. The proposed project will not have an adverse impact on the aesthetics of the surrounding area. The proposed project will involve the replacement of existing conductor with larger gauge conductor, the in-place replacement of pole structures, and the installation of an additional crossarm on several pole structures for reinforcement within the existing transmission ROW. The new conductor and pole structure replacements and reinforcements will fit within the context of the existing surroundings. Upton pf. at 11; *see also* findings 4 through 6, above.

52. A Phase IA Archaeological Resource Assessment was completed along the existing transmission corridor and the potential off-corridor access routes. The Phase IA assessment identified a total of thirty archeologically sensitive areas ("ASAs") within the study area; sixteen

of those ASAs are proposed to have some level of project-related impact resulting from direct pole replacement or vehicle access to pole locations. Upton pf. at 12; exhs. CVPS-TOU-4 and 5.

53. The Phase IA assessment was reviewed and approved by the Vermont Division for Historic Preservation ("DHP"). Upton pf. at 12.

54. A Phase IB assessment was completed within identified ASAs that CVPS anticipates will be impacted by the Project. The Phase IB assessment identified the presence of three historic sites: a railroad-related stone wall; a previously identified Euroamerican site; and a newly identified Native American site. The railroad-related stone wall is not considered a significant historic feature and can be easily avoided during construction. The Euroamerican site is a significant historic site. The Native American site has been recommended for Phase II study to determine its significance, which is currently underway. Information Responses at A14 (Upton); exh. CVPS-TOU-5.

55. Archaeological Phase II testing was completed for the Euroamerican site and the Native American site. The testing determined that the Native American site was not likely to be eligible for listing in the National Register of Historic Places. The Euroamerican site (VT-WN-271) is a significant historic site and, as such is potentially eligible for both the National and State Registers of Historic Places. The testing indicated that no significant archaeological deposits were present in the immediate vicinity of the Project's proposed area of potential effect. The testing firm stated that if avoidance of the structural remains was possible, no further archaeological work was recommended at the VT-WN-271 site. Exh. CVPS-TOU-6.

56. Based on its review of the Phase II testing, DHP concluded that the Project would not have an undue adverse impact on any historic sites or properties provided that: (1) CVPS identifies all areas of the VT-WN-271 site south of the required work area as a not-to-be-disturbed archeological buffer zone on the overall site plan and all other relevant site plans; (2) topsoil removal, grading, scraping, cutting, filling, stockpiling, logging, and any other type of ground disturbance are prohibited within the buffer zone without written permission from the Board and DHP; and (3) an exclusionary fence constructed of snow-fencing or other structural barrier shall be erected between any construction area and the VT-WN-271 site buffer zone during all construction activity adjacent to the buffer zone limits. Letter from CVPS, to Susan

Hudson, Clerk of the Board, filed November 16, 2011, at Attachment (letter from Giovanna Peebles, on behalf of DHP, to CVPS, dated November 14, 2011).

57. CVPS will avoid or protect any significant historic sites in accordance with DHP's site-specific recommendations. Upton pf. at 12; letter from CVPS, to Susan Hudson, Clerk of the Board, filed November 16, 2011.

58. There are no known rare and irreplaceable natural areas in the vicinity of the proposed project's ROW. Upton pf. at 12.

Discussion

CVPS has agreed to avoid or protect any significant historic sites and has agreed to adhere to DHP's site-specific recommendations described in Finding 56, above.³ Therefore, to ensure that the Project will not adversely impact any historic sites, we will include the above conditions, recommended by DHP, in the CPG.

Necessary Wildlife Habitat and Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

59. The proposed project will not have an undue, adverse impact on any necessary wildlife habitat and endangered species. The proposed project will occur entirely within an existing cleared transmission corridor and will not significantly impact deer wintering habitat. In addition, a field survey determined that no endangered species were located within the proposed project area. Upton pf. at 13.

Discussion

Although not observed during CVPS's field survey for this Project, the state-threatened White Adder's-mouth (*Malaxis monophyllos ssp. brachypoda*) was documented near Poles 41 and 42 in 1983.⁴ ANR requests that any CPG issued in this proceeding include a condition requiring that CVPS "limit, to the extent possible, disturbance of the ground and vegetation in the area where the state threatened White Adder's-mouth (*Malaxis monophyllos ssp. brachypoda*) was observed in 1983. This area is located near the rock walls adjacent to the Rutland railroad

3. Upton pf. at 12; letter from CVPS, to Susan Hudson, Clerk of the Board, filed November 16, 2011.

4. Upton pf at 13.

just south of the Village Summit east of Mount Holly."⁵ ANR represents that CVPS consents to the inclusion of the above condition. To ensure that the Project does not adversely impact any endangered species, we will include the condition in the CPG.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

60. The proposed project will not unnecessarily or unreasonably endanger the public or quasi-public investment in any public facilities, services or lands, or materially jeopardize or interfere with the function, efficiency, or safety of the public's use or enjoyment of or access to any such facility, service or lands. Upton pf. at 13.

Least-Cost Integrated Resource Plan

[30 V.S.A. § 248(b)(6)]

61. The proposed project is consistent with the principles for resource selection in accordance with CVPS's least-cost Integrated Resource Plan, which highlights the need to improve reliability and efficiency, by reconductoring to reduce losses and improve system performance. Jones pf. at 5.

Compliance with Electric Energy Plan

[30 V.S.A. § 248(b)(7)]

62. The proposed project is consistent with the *Vermont Electric Plan* ("the Plan"). This finding is supported by findings 63 and 64, below.

63. The Plan states that utilities "should on a continuous basis assess and enhance the reliability of its power system" and evaluate optimum engineering configurations for each circuit." The proposed project improves reliability and transmission-system efficiency. Jones pf. at 5.

5. Letter from Donald J. Einhorn, Esq., on behalf of ANR, to Susan Hudson, Clerk of the Board, filed November 17, 2011.

64. On October 28, 2011, the Department filed a letter stating that the Project is consistent with the *Vermont Electric Plan*, pursuant to 30 V.S.A. § 202(f). Letter from the Department of Public Service, to Susan Hudson, Clerk of the Board, filed October 28, 2011.

Outstanding Resource Waters

[30 V.S.A. § 248(b)(8)]

65. The Project is not located on or near any outstanding resource waters. Upton pf. at 13.

Existing or Planned Transmission Facilities

[30 V.S.A. § 248(b)(10)]

66. The proposed project will be served economically by existing or planned transmission facilities without undue adverse impact on Vermont utilities or customers. This finding is supported by findings 67 and 68, below.

67. The reconductored transmission lines will continue to be an integral part of CVPS's transmission facilities without any undue adverse effect on Vermont utilities or customers. Johnson pf. at 4.

68. The Project will not necessitate any customer outages and is expected to result in improved reliability, which will be a benefit for Vermont utilities and customers. Information Responses at A5 (Johnson); Johnson pf. at 3.

IV. CONCLUSION

Based upon all of the above evidence, we conclude that the Project will be of limited size and scope; the petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248; the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248(j); and the Project will promote the general good of the state.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board ("Board") of the State of Vermont that:

1. The proposed reconductoring of approximately 9 miles of 46 kV transmission line in Mount Holly and Ludlow, Vermont, by Central Vermont Public Service Corporation ("CVPS"), (the "Project"), will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248, and a certificate of public good to that effect shall be issued in this matter.

2. The Project shall be constructed in accordance with the evidence and plans submitted in this proceeding. Any material deviation from these plans must be approved by the Board.

3. Prior to proceeding with construction, CVPS shall obtain all necessary permits and approvals. Construction, operation, and maintenance of the proposed Project shall be in accordance with such permits and approvals, and with all other applicable regulations, including those of the Vermont Agency of Natural Resources and the U.S. Army Corps of Engineers.

4. Other than the commissioning and terminating of the transmission line conductors, CVPS shall restrict construction activities to the hours between 7:00 A.M. and 5:00 P.M., Monday through Saturday, and shall cease construction activities on Sundays and State and Federal Holidays.

5. CVPS shall identify all areas of the VT-WN-271 site south of the required work area as a not-to-be-disturbed archeological buffer zone on the overall site plan and all other relevant site plans. Topsoil removal, grading, scraping, cutting, filling, stockpiling, logging, and any other type of ground disturbance are prohibited within the buffer zone without written permission from the Board and Vermont Division for Historic Preservation. An exclusionary fence constructed of snow-fencing or other structural barrier shall be erected between any construction area and the VT-WN-271 site buffer zone during all construction activity adjacent to the buffer zone limits.

6. CVPS shall, to the extent possible, limit disturbance of the ground and vegetation in the area near Poles 41 and 42 where the state threatened White Adder's-mouth (*Malaxis monophyllos ssp. brachypoda*) was observed in 1983. This area is located near the rock walls adjacent to the Rutland railroad just south of the Village Summit east of Mount Holly.

Dated at Montpelier, Vermont, this 2nd day of December, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: December 2, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.